

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GRANGE MUTUAL CASUALTY CO.,	:	CASE NO.:
	:	
Plaintiff,	:	JUDGE:
	:	
vs.	:	<u>NOTICE OF REMOVAL FROM THE</u>
	:	<u>COURT OF COMMON PLEAS,</u>
OPTIMUS ENTERPRISES, INC., et al.	:	<u>CUYAHOGA COUNTY, OHIO</u>
	:	<u>CASE NO. CV15852647</u>
Defendants.	:	
	:	

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant Optimus Enterprises, Inc. (“Optimus”) hereby files this Notice of Removal of *Grange Mutual Casualty Co. v. Optimus Enterprises, Inc.*, et al., Case Number CV14852647, pending in the Court of Common Pleas, Cuyahoga County, Ohio. The grounds for removal are as follows:

1. Optimus was named as a Defendant in *Grange Mutual Casualty Co. v. Optimus Enterprises, Inc.*, et al., Case Number CV14852647, pending in the Court of Common Pleas, Cuyahoga County, Ohio.

2. The only other named Defendant in *Grange Mutual Casualty Co. v. Optimus Enterprises, Inc.*, et al. is Dongguan Honghua Manufacturing Co., Ltd.

3. *Grange Mutual Casualty Co. v. Optimus Enterprises, Inc.* was commenced on October 14, 2015 when Plaintiff Grange Mutual Casualty Company (“Grange”) filed a Complaint for products liability seeking to subrogate payments made to its insured as a result of the fire at the Property. Summons was issued by FedEx to Optimus on October 21, 2015. According to the Cuyahoga County Docket, Optimus was served on October 27, 2015. On October 22, 2014, summons was issues by registered main to Dongguan Honghua Manufacturing Co., Ltd. at Tianjin

Village, Huangjiang Town Dongguan City, Guangdong, China. According to the Cuyahoga County Docket, Dongguan Honghua Manufacturing Co., Ltd. has not yet been properly served. Copies of all relevant process, pleadings, order, and correspondence are attached hereto as Exhibit A.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) as follows:

- a. This case involves a Plaintiff who is a citizen of the State of Ohio;
- b. Optimus is incorporated under the laws of California and has its principal place of business at 2201 E. Winston Road, Unit J., Anaheim, California, 92806;
- c. Dongguan Honghua Manufacturing Co., Ltd has its principal place of business at No. 3 Binnong First Road, Tianxin, Village Huangjiang Town, Dongguan, Guangdong, China (523750) and is not incorporated in Ohio or California;
- d. The matter in controversy exceeds the same or value of \$75,000.00, exclusive of interests and costs;
- e. The controversy is between citizens of different states and in which citizens or subjects of a foreign state are additional parties;
- f. The petition is filed within thirty (30) days after receipt of process by Optimus, as required by 28 U.S.C. §1446(b).

5. As required by 28 U.S.C. § 1446(d), Optimus shall file a true and correct copy of this Notice of Removal with Clerk of Courts for Cuyahoga County, Ohio. Optimus also shall serve this Notice of Removal on Grange on the date set forth in the certificate of service below.

6. The United States District Court for the Northern District of Ohio, Eastern Division, is the district and division within which the state court action is pending.

7. Accordingly, Optimus has satisfied all removal prerequisites of 28 U.S.C. § 1446.

8. By filing this Notice of Removal, Optimus does not waive any defenses which may be available to them.

WHEREFORE, please take Notice that the above described action pending against Optimus in the Court of Common Pleas, Cuyahoga County, Ohio, has been removed to this Court.

Respectfully submitted,

/s/ Richard M. Garner

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Counsel for Defendant Optimus Enterprises, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November, 2015 a copy of the foregoing was served by electronic mail upon following counsel of record:

Hebert L. Nussle
KEIS & GEORGE, LLP
55 Public Square #800
Cleveland, Ohio 44113
216.241.4100 / FAX 216.771.3111
hnussle@keisgeorge.com

/s/ Richard M. Garner

RICHARD M. GARNER
SUNNY L. HORACEK

(0061734)
(0089178)



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
October 14, 2015 14:50

By: HERBERT L. NUSSLE 0063531

Confirmation Nbr. 568006

GRANGE MUTUAL CASUALTY CO.

vs.

OPTIMUS ENTERPRISES, INC., ET AL

CV 15 852647

Judge:

DANIEL GAUL

Pages Filed: 3

EXHIBIT

A

91637 HLN/nb

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

Grange Mutual Casualty Co.
P.O. Box 1218
Columbus, OH 43272

CASE NO.

Plaintiff

JUDGE:

vs.

Optimus Enterprises, Inc.
c/o Joseph Chu, Statutory Agent
2201 E. Winston Road, Unit J
Anaheim, CA 92806

and

COMPLAINT

Dongguan Honghua Manufacturing Co., Ltd.
No. 3, Bin Nong First Road
Tianxin Village, Huangjiang Town
Dongguan City, Guangdong, China 523750

Defendants

1. On November 13, 2013, and at all times material herein, Plaintiff Grange Mutual Casualty Company was the insurer, assignee, and subrogee of David Kirby who was the landlord and owner of the property located at 4681 W. 147th Street in Cleveland, Ohio.

2. At all times material herein, Kimberly Hoskins, was a tenant at the aforementioned property and was the owner of an Optimus Infrared Quartz Radiant Heater, model H-5210 or H-5211.

3. At all times material herein, Defendants Optimus Enterprises, Inc. and/or Dongguan Honghua Manufacturing Co., Ltd. were engaged in the business of designing, manufacturing, maintaining, assembling, testing, inspecting, marketing, labeling, packaging, distributing supplying and/or selling of radiant heaters, including the aforementioned Optimus Infrared Quartz Radiant Heater identified above and owned by the tenant (hereinafter "heater").

4. The aforementioned "heater" was designed and manufactured by Defendants Optimus Enterprises, Inc. and/or Dongguan Honghua Manufacturing Co., Ltd, a manufacturer which place "heaters" in the stream of commerce in the State of Ohio.

5. On or about November 13, 2013 at 4681 W. 147th Street in Cleveland, Ohio, the aforementioned "heater" failed as a result of defective and faulty component parts within the "heater", causing fire damage to Plaintiff insured's property in an amount of \$90,000.00.

6. The aforementioned heater failure and resulting fire damages were the direct and proximate result of the aforementioned "heater" being defective at the time it left the hands of Defendants Optimus Enterprises, Inc. and/or Dongguan Honghua Manufacturing Co., Ltd.

7. The Defendants placed the subject "heater" into the stream of commerce in a defective condition.

8. Plaintiff's insured's tenant was one of the ultimate users or consumers of the subject "heater".

9. At the time of the failure, the condition of the subject "heater" had not been materially altered or changed since it left the hands of the Defendants.

10. The aforementioned failure was the direct and proximate result of the defective condition of the subject "heater".

11. As a direct and proximate result of the failure, Plaintiff's insured's property was severely damaged, requiring repair and/or replacement in an amount of \$90,000.00.

12. Pursuant to its policy of insurance with its insured, Plaintiff was required to and did make payments to and/or on behalf of it's insured for aforementioned damages in the amount of \$90,000.00 and became subrogated to said amount.

13. Defendants Optimus Enterprises, Inc. and/or Dongguan Honghua Manufacturing Co., Ltd. were the "Manufacturer" of the subject "heater", as defined in the Ohio Revised Code §2307.71(A)(9) which defines a "Manufacturer" as a "person engaged in a business to design, formulate, produce, create, make, construct, assemble, or rebuild a product or a component of a product".

14. Defendants Optimus Enterprises, Inc. and/or Dongguan Honghua Manufacturing Co., Ltd. were the "Supplier" of the subject "heater" as defined in the Ohio Revised Code §2307.71(A)(15) which defines a "Supplier" as a person that, in the course of a business conducted for the purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise participates in the placing of a product in the stream of commerce.

15. The aforementioned "heater" was defective in manufacture and/or construction, as defined by R.C. §2307.74, when it left the Defendants' control.

16. The aforementioned "heater" was defective in design or formulation as described in R.C. §2307.75, in that at the time it left the control of its manufacturer, the foreseeable risks associated with its design or formulation exceeded the benefits associated with that design or formulation of the "heater".

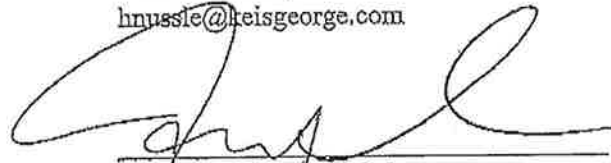
17. The aforementioned "heater" was defective due to inadequate warning or instruction as described in R.C. §2307.76.

18. The aforementioned "heater" was defective in design, production, or manufacture in that it failed to conform to the representations and/or warranties as described in R.C. §2307.77, that came with, or should have come with, said product, including, but not limited to implied warranties of merchantability, and/or implied warranty of fitness for a particular purpose.

19. The aforementioned heater was recalled by the United States Consumer Products Safety Commission on May 15, 2013, recall 13-191.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and/or severally, in the amount of \$90,000.00, plus statutory interest, plus the costs of this action.

KEIS | GEORGE llp
Attorneys for Plaintiff
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Cleveland, Ohio 44113
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Herbert L. Nussle 0063551

CASE NO.
CV15852647

D1 FX

SUMMONS NO.
27329680

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

GRANGE MUTUAL CASUALTY CO.
VS
OPTIMUS ENTERPRISES, INC., ET AL

PLAINTIFF
DEFENDANT

OPTIMUS ENTERPRISES, INC
C/O JOSEPH CHU, STATUTORY AGENT
2201 E. WINSTON ROAD, UNIT J
ANAHEIM CA 92806

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

HERBERT L NUSSLE
55 PUBLIC SQUARE

SUITE 800
CLEVELAND, OH 44113-0000

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.


Case has been assigned to Judge:

DANIEL GAUL
Do not contact judge. Judge's name is given for attorney's reference only.

NAILAH K. BYRD
Clerk of the Court of Common Pleas



DATE
Oct 21, 2015

By  Deputy

COMPLAINT FILED 10/14/2015





FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

October 27, 2015

Dear Customer:

The following is the proof-of-delivery for tracking number **781555298795**.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	J.CHU	Delivery location:	2201 E WINSTON RD J ANAHEIM, CA 92806
Service type:	FedEx Express Saver	Delivery date:	Oct 26, 2015 09:07

Shipping Information:

Tracking number:	781555298795	Ship date:	Oct 21, 2015
		Weight:	0.5 lbs/0.2 kg

Recipient:
OPTIMUS ENTERPRISES, INC
C/O JOSEPH CHU, STATUTORY AGENT
2201 E. WINSTON ROAD, UNIT J
ANAHEIM, CA 92806 US

Shipper:
CCoC
1200 Ontario
Cleveland, OH 44113 US

Reference	CV15852647
Invoice number	27329680

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SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER
CLEVELAND, OHIO 44113

CASE NO.
CV15852647

D2 RM

SUMMONS NO.
27329681

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

GRANGE MUTUAL CASUALTY CO.
VS
OPTIMUS ENTERPRISES, INC., ET AL

PLAINTIFF
DEFENDANT

DONGGUAN HONGHUA MANUFACTURING CO.,
LTD.
NO. 3, BIN NONG FIRST ROAD
TIANXIN VILLAGE, HUANGJIANG TOWN
DONGGUAN CITY, GUANGDONG, CHINA 523

You have been named defendant in a complaint
(copy attached hereto) filed in Cuyahoga County
Court of Common Pleas, Cuyahoga County Justice
Center, Cleveland, Ohio 44113, by the plaintiff
named herein.

You are hereby summoned and required to
answer the complaint within 28 days after service
of this summons upon you, exclusive of the day of
service.

Said answer is required to be served on Plaintiff's
Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court
within 3 days after service of said answer on
plaintiff's attorney.

If you fail to do so, judgment by default will be
rendered against you for the relief demanded in the
complaint.

Said answer is required to be served on:



Plaintiff's Attorney

HERBERT L NUSSLE
55 PUBLIC SQUARE

SUITE 800
CLEVELAND, OH 44113-0000

Case has been assigned to Judge:

DANIEL GAUL
Do not contact judge. Judge's name is given for
attorney's reference only.

NAILAH K. BYRD
Clerk of the Court of Common Pleas



DATE
Oct 21, 2015

By

Deputy

COMPLAINT FILED 10/14/2015






Print

CASE INFORMATION

CV-15-852647 GRANGE MUTUAL CASUALTY CO. vs. OPTIMUS ENTERPRISES, INC., ET AL

Docket Information

Filing Date	Side	Type	Description	Image
10/27/2015	N/A	SR	FEDEX RECEIPT NO. 27329680 DELIVERED BY FEDEX 10/26/2015 OPTIMUS ENTERPRISES, INC PROCESSED BY COC 10/27/2015.	
10/22/2015	D2	SR	SUMS COMPLAINT(27329681) SENT BY REGISTERED MAIL SERVICE. TO: DONGGUAN HONGHUA MANUFACTURING CO., LTD. TIANXIN VILLAGE, HUANGJIANG TOWN DONGGUAN CITY, GUANGDONG, CHINA 523 .,	
10/21/2015	N/A	SR	SUMMONS E-FILE COPY COST	
10/21/2015	N/A	SR	SUMMONS E-FILE COPY COST	
10/21/2015	D2	CS	WRIT FEE	
10/21/2015	D1	CS	WRIT FEE	
10/21/2015	D1	SR	SUMS COMPLAINT(27329680) SENT BY FEDERAL EXPRESS. TO: OPTIMUS ENTERPRISES, INC 2201 E. WINSTON ROAD, UNIT J ANAHEIM, CA 92806	
10/14/2015	N/A	SF	JUDGE DANIEL GAUL ASSIGNED (RANDOM)	
10/14/2015	P1	SF	LEGAL RESEARCH	
10/14/2015	P1	SF	LEGAL NEWS	
10/14/2015	P1	SF	LEGAL AID	
10/14/2015	P1	SF	COURT SPECIAL PROJECTS FUND	
10/14/2015	P1	SF	COMPUTER FEE	
10/14/2015	P1	SF	CLERK'S FEE	
10/14/2015	P1	SF	DEPOSIT AMOUNT PAID HERBERT L NUSSLE	
10/14/2015	N/A	SF	CASE FILED: COMPLAINT	

Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please [click here](#).

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